IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 7179 of 2007(D)

PETITIONER:

N.S.BABU, S/O.SANKARAN, PROPRIETOR,
SAIRAM TILE WORKS, ANNAKARA RESIDING AT
NALUPURAKKAL HOUSE, ANNAKARA P.O.,
TRICHUR.

BY ADV. SRI.K.A.SREEJITH

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
CIRCLE INSPECTOR OF POLICE, GURUVAYOOR.

2. THE SUB INSPECTOR OF POLICE, PAVARATTY.

ADDL. 3. THE DISTRICT COLLECTOR, THRISSUR.

" 4. THE GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR.

" 5. SECRETARY, ELEVALLY GRAMA PANCHAYAT,
ELAVALLY, THRISSUR.

" 6. PRASANNAN, S/O.SAHADEVAN, KUNNATHUVELI HOUSE,
ELAVALLY, THRISSUR DIST.

" 7. SASI, S/O.CHATHUTTY, KADAKKUDATH HOUSE,
ELAVALLY, THRISSUR DIST.

(ADDL. R3 TO R7 ARE IMPLEADED AS PER ORDER DATED 6.3.2007 IN I.A.NO.3467/2007)

R1 TO R4 BY G.P.SRI.P.A.SALIM
R5 BY ADV. SRI.P.VIJAYA BHANU
SRI.M.GEORGE THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.7179/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPIES OF THE PERMISSION GRANTED TO THE PETITIONER TO MINE CLAY FROM THE DEPARTMENT OF MINE AND GEOLOGY.

EXT.P2: TRUE COPY OF THE COMPLAINT DATED 28.2.2007 ADDRESSED TO THE SUB INSPECTOR OF POLICE, PAVARATTY AND CIRCLE INSPECTOR OF POLICE, GURUVAYOOR.

RESPONDENTS' EXHIBITS:

EXT.R5(a): TRUE COPY OF THE COMPLAINT DATED 15.3.2007 PREFERRED BY THE PRESIDENT OF ELAVALLY GRAMA PANCHAYAT.

EXT.R5(b): TRUE COPY OF THE COMPLAINT DATED 5.3.2007 PREFERRED BY THE 5TH RESPONDENT BEFORE THE SUB INSPECTOR OF POLICE, PAVARATTY.

EXT.R5(c): TRUE COPY OF THE COMPLAINT DATED 3.2.2002 PREFERRED BY THE 5TH RESPONDENT BEFORE THE SUB INSPECTOR OF POLICE, PAVARATTY.

EXT.R5(d): TRUE COPY OF THE RESOLUTION NO.107/2007 DATED 7.3.2007 OF THE ELAVALLY GRAMA PACHAYATH.

EXT.R5(e): TRUE COPY OF THE MASS COMPLAINT DATED 9.3.2007 PREFERRED BY THE PEOPLE RESIDING IN ELAVALLY AND MULLASSERY GRAMA PANCHAYATS AGAINST ILLEGAL MINING OF CLAY BEFORE THE HON'BLE CHIEF MINISTER OF KERALA.

// TRUE COPY "

TKS

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C)No.7179 OF 2007

Dated 26th March, 2007

JUDGMENT

Koshy,J.

This is a petition for police protection for mining of clay. Ext.P1 issued by the Mining and Geology Department shows that the petitioner has got permit only to take clay from a depth of 5ft. Government Pleader submitted that the petitioner has exceeded the above limit and now digging is done up to 15 ft. Counsel for the contesting respondents submitted that as per the conditions attached to the licence, without permission from the Railway authorities no mining can be done within 75 metres of the railway line and now the petitioner is attempting to mine within 25 metres of the railway line and there is violation of conditions of the licence. In the absence of any prohibitory order, police shall give adequate protection if they are satisfied that the entire conditions in the licence are complied with and if mining is done within the prohibited distance from railway line, permission is obtained from Railways. At the same time, police shall not allow any clay mining violating the conditions in the licence.

The writ petition is disposed of accordingly.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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